

November 8, 2018

Mr. Ford called the Meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Members Present: Mr. Mazza, Mr. Neary (7:05 p.m.), Mr. Nace, Mr. Eschbach, Mr. Kastrud, Mr. Stothoff, Mr. Kirkpatrick, Mr. Ford

Members Absent: Mr. Walchuk, Mr. Sullivan

Others Present: Atty. Mark Anderson, Robert Clerico, Andrea Malcolm, Beth McManus, Atty. Joseph Novak, William Salmon, Paul and Nancy Spatz, Bruce Hawkins, Atty. Sean Monaghan, Michael Fariello, Alfred Stewart

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated February 1, 2018, as published in the Hunterdon County Democrat and January 31, 2018, as published in the Courier News and subsequently noticed on October 15, 2018. A copy of the Notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Municipal Clerk.

Approval of Minutes: Mr. Eschbach made a motion to approve the minutes of the October 11, 2018 meeting. Mr. Mazza seconded the motion.

Vote: Ayes: Mr. Eschbach, Mr. Mazza, Mr. Nace, Mr. Kastrud, Mr. Kirkpatrick, Mr. Ford

Abstain: Mr. Stothoff

Adoption of 2018 Amended Third Round Housing Element and Fair Share Plan: Zoning Ordinance Changes – Recommendation to Township Committee

Mr. Ford asked Fair Share Housing Element Planner Beth McManus to explain the proposed Plan and subsequent Ordinance Changes. Ms. McManus referenced the Settlement Agreement with Fair Share Housing that established the number of affordable units required in Union Township and how to meet that requirement. She said the Township is required to adopt the Housing Element. Ms. McManus described the three components of the Plan. They are Rehabilitation, New Construction and the prior Round obligations. The Third Round Obligation from 1999 through 2025 is 227 units. Ms. McManus noted the Township's eligibility for Durational Adjustment which allows a municipality that does not have public sewer and water to address their Obligation in a less burdensome manner. She said that Overlay Zoning and Mandatory Set-Asides are mechanisms the Township can use to meet Obligations. Ms. McManus said the Red Hills Quarry and Foster Wheeler Sites have been designated for Overlay Zoning.

Mr. Ford asked for questions from the Board. Mr. Kirkpatrick asked if the Housing Plan reflected the Board's long-standing policies requiring developers to construct affordable housing. Ms. McManus said the Housing Plan is silent on Growth Share. Mr. Ford asked Ms. McManus about Mandatory Set Asides.

She said the Set Asides pertain to multi-family housing. Mr. Stothoff asked if the Township would be required to participate in extension of water or sewer to proposed Durational Adjustment sites. Ms. McManus said the Township is required to support but not fund any extension. Mr. Kirkpatrick asked Ms. McManus to confirm that the Overlay Zoning would not adversely affect property owners' ability to do anything that is currently allowed. Ms. McManus said that was correct. Mr. Nace asked about the 50-acre minimum lot size for Overlay Zoning. Ms. McManus said the Township had determined that lot size. Mr. Kastrud asked if the multi-family designation would impact the twin-home application before the Board. Ms. McManus said the set-asides are three or more units.

Mr. Ford asked for questions/comments from the Public. There was no response from the Public.

Mr. Ford asked for a motion to adopt the 2018 Third Round Housing Element and Fair Share Plan Amendment to the Master Plan.

Motion: Mr. Mazza made the Motion. It was seconded by Mr. Kastrud.

Vote: Ayes: Mr. Mazza, Mr. Kastrud, Mr. Neary, Mr. Nace, Mr. Eschbach, Mr. Stothoff, Mr. Kirkpatrick, Mr. Ford

Zoning Ordinance Changes – Recommendation to Township Committee

Ms. McManus said there are three Ordinances. She explained that Ordinance 2018-12 is an Amendment to the Township's Fair Share Affordable Housing Obligation and sets forth regulations regarding low and moderate income housing units, Ordinance 2018-13 is an amendment to Development Fees for Affordable Housing and Ordinance 2018-14 is the Multi-family inclusionary overlay zone district creating an option for developers of the two designated properties in that District (Block 13, Lot 7 and Block 22, Lots 28 and 30.

Mr. Stothoff asked if administration of Resolution 2018-13 would require additional monitoring. Ms. McManus said historically the administration was handled by the Planner and the Township CFO.

Mr. Kirkpatrick re-emphasized his concern about the Township continuing their policy of having a developer construct required units rather than having a contribution as a first choice. Ms. McManus said the Ordinances are silent on that issue.

Mr. Ford asked if the Ordinances precluded the Township from having such a policy. Ms. McManus said the Township could have a policy without conflict.

Mr. Kastrud asked if the Growth Share Fees were at the maximum allowed. Ms. McManus said they are at the maximum required by Statute for residential uses. She said the Township does not have a choice for non-residential. It is required to be set at the amount in the Ordinance which is two-and-one half percent.

November 8, 2018 Planning Board of Adjustment, Page 3

Mr. Ford asked for questions/comments from the Public. There was no response from anyone in the Public.

Mr. Ford asked for a motion to recommend that the Township Committee take action on the three Ordinances, noting that they are not inconsistent with the Master Plan.

Motion: Mr. Stothoff made a motion to adopt the above-listed Ordinances. Mr. Eschbach seconded the motion.

Vote: Ayes, Mr. Stothoff, Mr. Eschbach, Mr. Mazza, Mr. Neary, Mr. Nace, Mr. Kastrud, Mr. Kirkpatrick, Mr. Ford

Plushanski Construction: Block 22, Lot 15, 3 Frontage Road: 2019 Quarry License Renewal: Atty. Joseph Novak was present on behalf of applicant. Mr. Novak gave an overview of the application. Atty. Anderson referenced the Township Quarry Ordinance regarding the Planning Board's role. He said the Board either approves or denies the application. If denied, the Board makes a recommendation to the Township Committee to approve the application with or without conditions. Mr. Clerico recommended that next year the Board should consider to have an updated as-built of the quarrying operation. He referenced the expired LOI. Atty. Anderson said applicant is not in compliance with the Ordinance because of quarrying within the 50-foot buffer. He said, however, that strict compliance with the Ordinance would not be desirable.

Mr. Ford said the Board should recommend to the Township Committee that although the application does not comply with the Ordinance it would be appropriate for them to waive the provision regarding quarrying in the fifty-foot buffer. They also said the Certificate of Insurance must be approved by the Township Attorney. Mr. Anderson also suggested that the Committee require Mr. Plushanski to provide As-Built Plans of the quarrying operation. Mr. Stothoff said consideration of extending the waivers pertaining to the fifty-foot waiver be a recommendation as well. Atty. Anderson said the License is required to be renewed annually.

Motion: Based upon the discussion, Mr. Kastrud made a motion to recommend to the Township Committee that they give consideration to waiving the provision regarding quarrying in the fifty-foot buffer, accepting the LOI as it stands and to advise Mr. Plushanski to provide an As-Built Plan with the 2020 application. Mr. Mazza seconded the motion.

Vote: Ayes: Mr. Kastrud, Mr. Mazza, Mr. Neary, Mr. Nace, Mr. Eschbach, Mr. Stothoff, Mr. Ford, Mr. Kirkpatrick

Powerco Partners LTD: Block 23, Lot 2.02, Preliminary & Final Site Plan: Mr. Ford said applicant's Atty. Alan Lowcher requested an adjournment until the December 20, 2018 meeting. Mr. Lowcher had

noticed the meeting for tonight; however, applicant was unable to provide required documents. Mr. Ford asked for a motion in response to the request.

Motion: Mr. Eschbach made a motion to adjourn the Public Hearing until December 20, 2018 with no further notice required. Mr. Nace seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Issue of Completeness: V.A. Spatz & Sons, Inc. Block 22, Lot 5, 35 Frontage Road: Preliminary & Final Site Plan: Atty. Joseph Novak was present on behalf of applicant. Mr. Novak said Engineer William Salmon, Owners Paul and Nancy Spatz and Bruce Hawkins, Project Manager were present.

It was noted for the record that Committeemen Mazza and Neary recused themselves prior to the completeness discussion. Mr. Ford asked Mr. Clerico to review his letter dated October 29, 2018.

Mr. Clerico said applicant submitted an amended application that requested a waiver from the Steep Slope Disturbance Criteria and a Use Variance for outdoor storage pending clarification on the intended use of paved surfaces. He said that item is complete unless Ms. Malcolm determines additional variances are required. Mr. Clerico referenced Checklist Item # 29 which lists the number of trees surveyed in the area of disturbance that will be removed. Mr. Kirkpatrick indicated applicant has met the terms of the Ordinance. Ms. Malcolm noted the tree replacement number would be very high and it would be in applicant's interest to show the number of trees to be removed. Mr. Kirkpatrick advised applicant to review the Tree Ordinance as it relates to tree removal/replacement permits.

Mr. Clerico referenced Checklist Item # 59 (LOI). He recommended the Board grant a temporary waiver for that Item. He said Checklist Item # 60 (As-built Plan) should be granted a temporary waiver and be submitted upon completion of the project. Mr. Clerico referenced Checklist Item # 62 (Phase One Geologic Report. Geologist DeRicco deemed that item complete and recommended the Board waive the requirement for a Phase Two report.

Mr. Ford asked for questions from the board. There were none. He asked for a motion to deem the application complete.

Motion: Mr. Kirkpatrick made a motion to deem the application complete, recognizing the Forest Management Plan is adequate, granting temporary waivers for the LOI and submission of the As-built Plan and recognition that the Phase I Geology Report is sufficient and a Phase II Report is not required. Mr. Stothoff seconded the motion.

Vote: Ayes: Mr. Kirkpatrick, Mr. Stothoff, Mr. Nace, Mr. Eschbach, Mr. Kastrud. Mr. Ford

The Public Hearing was scheduled for December 6, 2018.

Issue of Completeness/Public Hearing: Union Township Board of Education: Block 21, Lot 7, 145

Perryville Road: Amended Minor Subdivision: Atty. Sean Monaghan was present on behalf of applicant.

Mr. Monaghan provided background information on the site. He introduced witnesses who would be giving testimony: Michael Fariello, Board of Education Finance Committee Chairman and Engineer Alfred Stewart. Mr. Ford said Mr. Clerico had issued a report dated October 26, 2018 and Ms. Malcolm submitted a report dated October 31, 2018.

Mr. Clerico reviewed his October 26th letter as it relates to completeness. Mr. Clerico recommended that waivers be granted for Checklist B Item # 19 (Aerial photo), # 20 (Topography) # 22 (Contours in Intervals), # 30 (Location of Trees) and # 59 (LOI); also to grant waivers from Checklist C Items # 19, 20, 22 and 59.

Mr. Ford asked for a motion to deem the application complete.

Motion: Mr. Eschbach made a motion to deem the application complete, granting the waivers recommended by Mr. Clerico. Mr. Stothoff seconded the motion.

Vote: All Ayes, No Nays, Motion Carried

Public Hearing: Witnesses Fariello and Stewart were sworn by Atty. Anderson. Mr. Fariello apprised the Board the reason the Board of Education is applying to subdivide the residential dwelling from the Elementary School. He explained the rationale for the proposed subdivided lot size and the remaining lot size for the School. Mr. Fariello noted the impervious surface coverage ratio variance for the residential lot. There is a barn and shed on the lot. The School does not use those buildings and did not consider demolishing them because of the cost. There is a well and septic system on the proposed lot. An investigation of the well revealed that it should be sealed off in order to avoid the possibility of contamination. The septic system was determined to be inadequate. Applicant has proceeded with perc tests. Mr. Kirkpatrick said one perc test was in the conservation easement and installation of the septic system in that area would be prohibited.

Mr. Kastrud said his wife is a teacher at the School. Atty. Anderson said it would be prudent for Mr. Kastrud to recuse himself. Whereupon, he stepped down from the podium. Atty. Monaghan noted that with Mr. Kastrud recusing himself there was one less member to vote. Atty. Anderson said although Messrs. Mazza and Neary had recused themselves earlier they could sit on this matter since it is not a use variance application.

Mr. Ford asked for questions from the Public. Board Member Kirkpatrick noted the self-created variance for impervious surface coverage could be eliminated if additional land was added to the proposed lot. Atty. Anderson said he is not sure it meets the legal requirements to grant the requested variance. He thought Ms. Malcolm would be able to provide information in that regard.

Atty. Monaghan said he spoke with Mr. Fariello who indicated he will speak with the Board of Education Finance Committee conveying the concerns of the Planning Board and their Professionals and suggest the BOE consider expanding the residential lot size.

Mr. Ford mentioned another alternative would be to demolish the barn and shed. Mr. Kirkpatrick reemphasized his earlier suggestion to add more land to the proposed lot. He also said that could make the lot more marketable.

Atty. Monaghan said applicant would submit a new plan that will include additional land for the residential lot.

Continuance of the Hearing was discussed. A motion was made by Mr. Stothoff and seconded by Mr. Mazza to adjourn the Hearing until December 20, 2018 with no further notice required.

Vote: All Ayes, No Nays, Motion Carried

Reorganization/Regular Meeting: Mr. Stothoff made a motion to schedule the Reorganization Meeting for January 10, 2019 at 7:00 p.m, followed by the Regular Meeting. Atty. Anderson noted this would be a revision to the 2018 Annual Meeting Notice

Vote: all Ayes, No Nays, Motion Carried

Comments from the Public: A resident of 166 Perryville Road had questions about the Quick/Chek application.

Motion to Adjourn: Mr. Eschbach made a motion to adjourn. Mr. Kastrud seconded the motion. (8:35 p.m.)

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary

